

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DYNAMITE SALAVEA,

Plaintiff,

V.

CANDACE PALMER *et al.*,

Defendants.

Case No. C08-5417RBL/JKA

**ORDER TO FILE AN AMENDED
COMPLAINT**

This Civil Rights action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. § 636(b)(1)(B). Plaintiff was given leave to proceed *in forma pauperis*. Review of plaintiff's proposed complaint disclosed a number of defects. An Order to Show Cause was sent by the court.

Plaintiff alleges he told defendants at the Clallam Bay Corrections Center he would be in danger if he was sent to the Penitentiary. He was sent to the Penitentiary, and shortly after being placed in general population he was in a fight with other inmates. Plaintiff was then placed in segregation. In the complaint plaintiff acknowledged he lost thirty days good conduct time as a result of the fight (Dkt. # 4). Plaintiff asked for restoration of the lost good conduct time and damages for mental and emotional stress as a result of the transfer. Plaintiff did not claim any injury as a result of the fight between him and other inmates.

See, original complaint, (Dkt. # 4).

The court had three areas of concern. The first concern was plaintiff's claim regarding transfer from

1 Clallam Bay Corrections Center to the Penitentiary at Walla Walla. Plaintiff has no liberty interest in
2 remaining at any given institution. Plaintiff's response to the Order to Show Cause does not address this
3 concern.

4 The second area of concern was plaintiff's request for restoration of good conduct time he lost
5 through disciplinary proceedings. Plaintiff cannot challenge the loss of good time in a civil rights action.
6 Plaintiff has not addressed this concern in his response to the Order to Show Cause.

7 The court's final concern was Plaintiff's request for damages for emotional stress and trauma as a
8 result of the transfer. Plaintiff alleged he was in a fight very shortly after being sent to general population
9 in Walla Walla. While plaintiff alleges he informed persons at the Clallam Bay Corrections Center he would
10 be in danger if sent to Walla Walla, plaintiff did not name any defendant from the Penitentiary. All the
11 named defendants work at the Clallam Bay Corrections Center.

12 In his response to the Order to Show Cause plaintiff alleges he informed several people at the
13 Penitentiary he would be in danger if sent to population. He states in the response that when he was
14 released two inmates "beat the crap" out of him. Plaintiff does not elaborate on what he means by this
15 term. In the original complaint, plaintiff sought monetary damages for the emotional suffering and stress
16 caused by his transfer. He did not allege any physical injury as a result of the fight at the Penitentiary.

17 Plaintiff's response indicates there may have been a physical injury. Plaintiff is now ordered to file
18 an amended complaint. The amended complaint will act as a complete substitute for the original. If the
19 amended complaint does not cure the defects the court has outlined in the Order to Show Cause and in this
20 order, the court will recommend this action be dismissed for failure to comply with court orders.

21 The amended complaint will be due on or before **August 15, 2008**. The Clerk is directed to send
22 plaintiff a copy of this Order and note the **August 15 2008**, date on the court's calendar.

23
24 DATED this 15 day of July, 2008.

25
26 /S/ J. Kelley Arnold
27 J. Kelley Arnold
28 United States Magistrate Judge